

MINUTES OF THE MEETING OF THE CITY COUNCIL

Wichita, Kansas, August 3, 2004
Tuesday, 9:04 A.M.

The City Council met in regular session with Mayor Mayans in the Chair. Council Members Brewer, Fearey, Gray, Lambke, Martz, Schlapp; present.

George Kolb, City Manager; Cathy Holdeman, Assistant City Manager; Gary Rebenstorf, Director of Law; Karen Sublett, City Clerk; present.

Rev. Roger Bull, Riverside Christian Church, gave the invocation.

The pledge of allegiance to the flag was participated in by the Council Members, staff, and guests.

The Minutes of the Meeting of July 20, 2004, and the July 27, 2004, Consent Agenda Minutes were approved 7 to 0.

AWARDS AND PRESENTATIONS

Proclamations

Proclamations previously approved were presented.

PUBLIC AGENDA**CAROL A. JOHNSON, MD. – HARMFUL EFFECTS OF SECOND-HAND TOBACCO SMOKE.**

Carol A. Johnson MD

Dr. Johnson stated that she is member of Tobacco Free Wichita and that as a physician, the sickest group of people that she sees at her office, hospital and emergency rooms, are those who have damaged their hearts, blood vessels and lungs through the use of tobacco. Stated that exposure to second hand smoke occurs in restaurants, bars, break rooms, on the sidewalk, etc. and that there is no safe level of exposure. Stated that the cost for the health care related to this suffering is staggering. Reported that there have been six states that have instituted bans on public smoking and urged the Council to institute a clean indoor air ordinance.

PAT MACDONALD-CHAIR OF THE TOBACCO FREE WICHITA COALITION.

Pat MacDonald

Ms. MacDonald stated that she is the Chair of the Tobacco Free Wichita Coalition, and is here to urge the Council to move Wichita into public health protections of the 21st Century by protecting us all from second hand smoke. Reported that new studies on second hand smoke show that it causes not just lung cancer, but increases the risk of heart disease and aggravates conditions such as emphysema, asthma, cystic fibrosis, respiratory allergies and middle ear infections in babies and children. Stated that second hand smoke is a public health hazard and should be minimized. Stated that a primary role of government is to protect citizens from harm and that the Tobacco Free Wichita Coalition is asking for a public health regulation to protect people, especially workers from the harmful health effects of second hand smoke. Requested that the Council direct staff to expand current regulations to make all workplaces and indoor public spaces smoke free.

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UNFINISHED BUSINESS

KDOT

PROJECT FUNDING REQUEST TO KANSAS DEPARTMENT OF TRANSPORTATION. (DISTRICTS II, III, IV AND V) (DEFERRED JULY 20, 2004)

John Schlegel

Planning Director reviewed the Item.

Agenda Report 04-0742A.

MAPC Recommendation: Authorize submittal of project funding requests.

As a continuation of their local partnership program, the Kansas Department of Transportation (KDOT) is requesting project submittal for the KLINK Resurfacing, Geometric Improvements, and Economic Development programs. The KLINK Resurfacing project requests are for fiscal year 2007 (July 1, 2006 through June 30, 2007) and the Geometric Improvements and Economic Development projects are for fiscal year 2008 (July 1, 2007 through June 30, 2008). The Item was deferred from the July 20, 2004 City Council meeting.

The KLINK Resurfacing, Geometric Improvements, and Economic Development projects were developed by the Public Works Department, Finance Department's Economic Development Division, and Planning Department, based on the eligibility requirements of each program.

None of the projects are listed in the current CIP. Staff had last reviewed the list of CIP projects for eligibility under these programs in 2003 and did not find any potential candidate projects at that time. Staff's review this year was more cursory based on its knowledge of the relatively few changes to the CIP. The resurfacing project proposed would not appear separately in the CIP, falling under the Annual Maintenance Contract Operating Fund. The South Broadway and 47th street South geometric improvements were still under study at the time the current CIP was being prepared. All three economic development projects were reviewed by staff as opportunities to pursue but not necessarily high priorities for inclusion in the CIP.

KLINK Resurfacing

This is a program of resurfacing type projects intended to improve roadway surfacing of City Connecting Links. All cities with City Connecting Links of the State Highway System within their boundaries are eligible. A City Connecting Link is a route on the State Highway System, such as K-15 and US-54, which the City of Wichita maintains for the State.

Costs

- | | |
|---|-----------|
| 1) Mill/overlay and existing shoulder repair
U.S. 54/400 from Turnpike (West of Webb Rd.) to the
East City Limits | \$400,000 |
|---|-----------|

Geometric Improvements

This is a program of highway construction that is intended to improve geometric deficiencies on City Connecting Links. A geometric deficiency can be any roadway design feature that slows or hinders traffic movement (such as narrow lane widths or a tight turning radius) or that creates a traffic safety concern (such as a lack of medians). All cities with City Connecting Links of the State Highway System within their boundaries are eligible. A City Connecting Link is a route on the State Highway System, such as K-15 and US-54, which the City of Wichita maintains for the State. Projects under this category will improve the geometry of the roadway thus increasing the safety and capacity for vehicular traffic.

Costs

- | | |
|--|-------------|
| 1) Widening the corridors along both
South Broadway (46th St. S. to 48th St. S.)
and 47th St. S. (Main to I-135) | \$4,799,224 |
|--|-------------|

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Economic Development

This is a program of highway and bridge construction that is intended to enhance the economic development of the State of Kansas. Any project that may be considered to have the potential to enhance significantly the income, employment, sales receipts, and land values of the surrounding area is eligible.

	<u>Costs</u>
1) Reconstruct and reconfigure Dugan, Pueblo, and Hoover Road from US-54/400 (Kellogg) to Harry	\$3,090,000
2) Greenwich interchange at K-96	\$2,060,000
3) Reconstruct and widen Tyler Road from Harry to Pawnee	\$2,574,950

If approved, KDOT will participate in the cost of the requested projects, as follows:

<u>KLINK Resurfacing</u>	<u>KDOT%</u>	<u>KDOT Share</u>	<u>Local/Other Share</u>
1) Mill/overlay and existing shoulder repair U.S. 54/400 from Turnpike (West of Webb Rd.) to the East City Limits	50%	\$200,000	\$200,000

If the project is awarded by KDOT, some reprioritization of funds may be necessary to make the match. The local share for this program would need to be programmed in the Capital Improvement Program in 2007. The local share will come out of the City of Wichita Public Works Department's Annual Maintenance Contract Operating funds.

<u>Geometric Improvements</u>	<u>KDOT%</u>	<u>KDOT Share</u>	<u>Local/Other Share</u>
1) Widening the corridors along both South Broadway (46th St. S. to 48th St. S.) and 47th St. S. (Main to I-135)	20%	\$950,000	\$3,849,224

<u>Economic Development</u>	<u>KDOT%</u>	<u>KDOT Share</u>	<u>Local/Other Share</u>
1) Reconstruct and reconfigure Dugan, Pueblo, and Hoover Road from US-54/400 (Kellogg) to Harry	65%	\$2,000,000	\$1,090,000
2) Greenwich interchange at K-96	73%	\$1,500,000	\$560,000
3) Reconstruct and widen Tyler Road from Harry to Pawnee	75%	\$1,931,213	\$643,737

If one or more of these projects are awarded by KDOT, some reprioritization of funds may be necessary to make the match. The local share for this program would need to be prioritized and selected for funding as part of the City of Wichita's Capital Improvement Program selection process for fiscal year 2007.

If funding is granted for any of the projects, then an agreement will be required between the City and KDOT.

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- Mayor Mayans Mayor Mayans inquired whether anyone wished to be heard and no one appeared.
- Council Member Martz Council Member Martz stated that he still has a problem with this type of program because in totaling these figures it is almost six million dollars of monies and putting projects out that up until now have not had enough importance to be in the CIP. Stated that he would be happy in adding these to the CIP if the Council feels that they are important. If the City does receive the grants the Council would be obligated to redirect six million dollars that is not currently in the CIP to accomplish these projects. Stated that part of the planning for all of these projects should be added into the CIP, worked through and planned ahead versus taking plans that are in the CIP, which some have been in there eight to ten years, have to take them out or roll them back. Stated that he is opposed to this plan.
- Mayor Mayans Mayor Mayans stated that not all of the money is spent that is in the CIP each year because there are projects that are cancelled or not completed so that there would be a certain amount of money available anyway that would not impact projects.
- John Schlegel Planning Director explained that every year, you end up reprogramming some of the funds from any one-year of the CIP as a result of things not going forward.
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- Council Member Martz Council Member Martz asked why is it that in the past there have been several times when he and other members of the Council have asked for some project and have been told that there is no money for that and have to not include a particular project in the CIP and now we are being told that we have money left over. Stated that if there is money left over each year that we ought to have that money brought back to the Council to see if there are projects that they would like to have incorporated at that time.
- Council Member Fearey Council Member Fearey stated that she agrees with Council Member Martz that when there is money left over from other projects then something from the CIP can be moved forward. Stated that all of the Council Members have projects that they would like to see any additional money go towards and cannot support any of this except for the overlay.
- Mayor Mayans Mayor Mayans stated that there are federal dollars that are available for projects and if those federal dollars are not accessed, someone else will access them. Stated that the federal dollars are the dollars of the taxpayers in our community that are sent to Washington and they are willing to give back part of that if we are able to co-op some of these projects.
- Council Member Schlapp Council Member Schlapp stated that when there is someone willing to help fund these projects then the priorities change a little bit and if the City were to be accepted then the Council can look at it again and say is the value now better than if we did not have that federal funding. Stated that she would like to see if we can get the opportunity to make that judgment and it might become a good bargain to have some state or federal funding. Stated that she would like to go ahead and apply for the grants and look at the cost evaluation when the opportunity comes.
- Motion-- Martz moved that the proposed projects be approved and staff be authorized to submit project requests to KDOT. Motion carried 5 to 2, (Yeas: Schlapp, Brewer, Mayans, Lambke and Gray) (Nays: Martz and Fearey).
- carried

NEW BUSINESS

VISIONEERING

UPDATE ON VISIONEERING WICHITA.

- Allen Bell Director of Economic Development reviewed the Item.
- Council Member Fearey momentarily absent.
- Agenda Report No. 04-0779

On May 4, 2004, the City Council authorized the City's participation in the development of a community visioning process for the greater Wichita area. The community visioning process is broad-

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based and engages business and community leaders, along with general citizenry, to craft a future vision for the greater Wichita area. Through this process strengths and weaknesses are being identified along with opportunities and threats in relationship to our principal regional competitors. The result will be a community strategic plan designed to achieve the greater Wichita region's new vision by engaging existing resources at new levels of focus/collaboration or determining and pursuing new regional community competencies and resources. The City of Wichita, Sedgwick County, the Kansas Health Foundation, the Wichita Community Foundation and the Wichita Downtown Development Corporation (WDDC) have joined to fund this visioning effort. The Wichita Area Chamber of Commerce is taking a leadership role in the implementation of the process.

On May 10, 2004, the steering committee comprised of the above-mentioned funding partners selected the firm of Luke Vision of Jacksonville, Florida to serve as the community's visioning consultant. Henry Luke has visited Wichita several times since then and has conducted a number of focus groups and helped establish a Vision Steering Committee to oversee the implementation of the vision process and plan. He will present an update on the progress made to date in the implementation of the visioning process.

The visioning process started in June 2004 and is scheduled to be completed by December 31, 2004. In addition to the formation of the steering committee and the focus groups, the process will include eight community meetings over the next three weeks and the selection of four vision task forces that will include over 400 members. The task forces will be charged with drafting the community vision through the month of September. The draft vision will be presented to the community through a series of meetings and through the media. A final community meeting will be held in December to review the final draft. It is anticipated that the resulting vision plan will be implemented during the ensuing 5-20 years.

The total cost of the visioning process will be approximately \$350,000. The City of Wichita share of \$75,000 was approved by the City Council on May 5, 2004.

There are no legal considerations.

Harvey Sorenson

Mr. Sorenson introduced Henry Luke, facilitator and leader of the visioning process, and Susie Ahlstrand, Wichita Area Chamber of Commerce. Stated that since May they have had a lot of public involvement and that Mr. Luke led a series of 20 focus groups involving more than 400 people who came together to tell them about their concerns about the community and from that they have developed a great deal of information and have done a lot of research. Stated that there will be a series of four community meetings this week and four more in two weeks and encouraged everyone to attend one of those meetings. Stated that the first community meeting was held last night and that over 400 people showed up to participate for over three hours in a dialogue about our community and they produced hundreds of good ideals. This information will be posted on their website and be available to the public and will ultimately result in a report to the Vision Task Forces. Stated that part of their community involvement has been in the form of a steering committee and they have 50 community leaders and they have been working this week to select four vision task forces, which is a self-nomination process and they received over 800 applications for 400 spots. Stated that these four task forces will then be divided into groups of 100 who will take the information that was generated at the community meetings and prepare a draft report to the steering committee, which will then produce a draft vision statement.

Mayor Mayans

Mayor Mayans inquired whether anyone wished to speak on this issue and no one appeared.

Motion--carried

Mayans moved that the update be received and filed. Motion carried 7 to 0.

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2005/2006 BUDGET

2005/2006 ANNUAL OPERATING BUDGET.

Kelly Carpenter

Acting Financing Director reviewed the Item.

Agenda Report No. 04-0780

In accordance with state law, the City submits the annual budget to the state for certification of each fund on or before August 25. The City of Wichita prepares a two-year rolling budget; however, only the first year of the two is officially adopted. The City also revises the current year budget. The revenue and expenditure budgets are prepared annually for each fund, and revised for the next two calendar years. The 2005/2006 Proposed Budget revises the current year (2004), proposes a budget for the ensuing fiscal year (2005) and projects a budget for the second succeeding year (2006).

The local operating budget totals approximately \$409 million (which does not include internal service funds, capital projects, grant funds, trust funds or inter-fund transfers) with a mill levy of 31.905 mills (21.905 for the General Fund and 10 for the Debt Service Fund). The 2005 Budget is balanced and does not require a mill levy rate increase for the eleventh consecutive year. Some highlights of the budget include:

- ü The proposed budget does not require any layoffs.
- ü The budget includes an additional \$1,000,000 annually for economic development incentives (additional to the \$2.5 million included in 2004 to support low airfare efforts).
- ü The budget includes \$220,000 for a new crack seal crew in public works, and reprograms \$400,000 to supplement maintenance efforts in the park department.
- ü Contracted street maintenance was increased or restored to \$5.5 million, a \$600,000 increase.
- ü The proposed budget includes a new ticketing system for Century II, and three additional staff to support it.
- ü An employee wage and benefit package is included for 2005 which provides a 1.5% general pay increase, anticipated earned merit pay adjustments, and continuation of the 80% employer contribution for health insurance.
- ü The budget funds 22 school resources officers, offset partially by a budgeted \$250,000 annual contribution from USD 259.
- ü Water and sewer rate increases of 4% and 3%, respectively, are projected in 2005, driven primarily by capital needs for water supply and sewage treatment improvements.

The proposed budget does not include a mill levy increase as presented.

The 2005 City Budget calendar:

- ü August 3 – Receive public comment
- ü August 10 – Official public hearing; adoption of the 2005 Annual Budget
- ü August 25 – File the certified budget for all operating funds with the County Clerk

Mayor Mayans

Mayor Mayans inquired whether anyone wished to be heard.

Patricia Norfolk

Ms. Norfolk who resides at 428 North St. Paul stated that she is concerned with the false alarm fines be raised from \$28.00 to \$40.00 and asked if the alarm ordinance will be reviewed at that time. Stated that currently there is the two-minute window for cancellation of an alarm and if the police do not respond it is still considered a false alarm and the citizens are fined.

Mayor Mayans

Mayor Mayans instructed Kelly Carpenter, Acting Finance Director to get back with Ms. Norfolk on this issue.

Council Member Gray

Council Member Gray stated that he has had two inquiries about the two minute delay and that the City Council should review the current ordinance.

Council Member Fearey

Council Member Fearey stated that she too has had inquiries regarding this issue and asked that the ordinance be looked at to meet the needs of everyone.

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George Kolb City Manger stated that he would have the city attorney's office review this ordinance and recommend any changes coming back to the Council in the near future.

Motion-- Mayans moved that the public comment on the 2005/2006 Proposed Budget be received. Motion
--carried carried 7 to 0.

(The following Item was taken up later in the meeting; action shown in Agenda order.)

(Item No.6)

GO BOND/NOTE SALE GENERAL OBLIGATION BOND AND NOTE SALE.

Kelly Carpenter Acting Finance Director stated that this Item will be delayed until 11:00 a.m. because the bids are opened at 10:30 a.m.

Agenda Report No. 04-0781

The City is offering for sale one series of general obligation temporary notes totaling \$52,300,000 (Series 211), two series of general obligation bonds (Series 778 and 778A) totaling \$12,740,000 for the purpose of providing permanent financing for capital improvement projects of the City, and one series of general obligation sales tax bonds (Series 2004) in the amount of \$36,000,000 to provide financing for freeway capital improvements.

The proceeds from the sale of the Series 211 Temporary Improvement and Renewal Notes will be used to provide interim financing for City-at-large and improvement district projects. The proceeds from the sale of the Series 778 and 778A Bonds will be used to permanently finance neighborhood improvements located in special improvement districts. The proceeds from the sale of the Series 2004 Sales Tax Bonds will be used to permanently finance City-at-large freeway improvement projects, including the Kellogg/Woodlawn and Kellogg/Tyler Interchanges.

Sealed bids will be accepted via facsimile, walk-in sealed bids or electronically through I-Deal, LLC/PARITY Electronic Bid Submission System until 10:30 a.m. CST in the Finance Conference Room, at which time the bids will be publicly opened. No bids will be accepted after the 10:30 a.m. deadline. The bids will be verified, tabulated and presented to the City Council at its earliest convenience following the tabulation of the bids. By law, the City must award the sale of the bonds and notes to the bidder whose proposed interest rates result in the lowest true interest rate.

The Series 211 Temporary Notes will mature February 17, 2005, and will be retired using cash, the proceeds of both permanent-financing bonds, and renewal notes issued at that time. The Series 778 Bonds will mature serially over fifteen years and will be paid from special assessments that are levied against benefited property. The Series 778A Bonds will mature serially over twenty years and will be paid from special assessments that are levied against benefited property. The Series 2004 Sales Tax Bonds will mature serially over fifteen years and will be paid from the portion of the City's one percent local option sales tax that is dedicated by law to paying the costs of street and road improvements. The Series 778 and Series 2004 Bonds will be callable in 2011 and the Series 778A Bonds will be callable in 2014 with a 1% call premium, in accordance with the City's debt management policy. Bond Counsel will review and approve the bids and the Law Department will approve the authorizing Ordinances, which have been prepared by Bond Counsel.

Motion -- Mayans moved that the sale of the Bonds and Temporary Notes be awarded as outlined above; the
-- carried Declaration of Emergency be approved and the Bond and Note Ordinances be adopted on first reading; and the necessary signatures be authorized. Motion carried 7 to 0.

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RESOLUTION NO. 04-405

A Resolution authorizing and providing for the issuance of General Obligation Sales Tax Bonds, Series 2004 LIS, of the City of Wichita, Kansas, in the total principal amount of \$36,000,000, for the purpose of providing the necessary funds to pay costs with the construction of roads, highways and bridges in the City; prescribing the terms and details of the bonds; pledging a portion of the county retailer's sales tax revenues allocated to the City for the payment of the principal of and the interest on the bonds as they become due; providing for the levy and collection of an annual tax for the purpose of providing for the payment of any portion of the principal of and the interest on the bonds not paid from said sales tax revenues; and making certain other covenants and agreements with respect to the bonds, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

RESOLUTION NO. 04-406

A Resolution authorizing and providing for the issuance of General Obligation Renewal and Improvement Temporary Notes, Series 211, of the City of Wichita, Kansas, in the total principal amount of \$52,300,000, for the purpose of providing the necessary funds to renew a portion of the principal amount of temporary notes previously issued for the interim financing of costs in connection with previously commenced capital improvements in the City, and for the interim financing of costs in connection with newly commenced capital improvements in the City; prescribing the terms and details of the notes; providing for the payment of the principal of and the interest on the notes; and making certain other covenants and agreements with respect thereto presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

RESOLUTION NO. 04-408

A Resolution providing for the issuance of General Obligation Bonds, Series 778, of the City of Wichita, Kansas, in the total principal amount of \$12,175,000, for the purpose of providing the necessary funds to pay costs in connection with the making of capital improvements in the City; prescribing the terms and details of the bonds; and making certain other covenants and agreements with respect to the bonds presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

RESOLUTION NO. 04-409

A Resolution providing for the issuance of General Obligation Bonds, Series 778A, of the City of Wichita, Kansas, in the total principal amount of \$565,000, for the purpose of providing the necessary funds to pay costs in connection with the making of capital improvements in the City; prescribing the terms and details of the bonds; and making certain other covenants and agreements with respect to the bonds presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

ORDINANCE NO. 46-222

An Ordinance authorizing and providing for the issuance of General Obligation Sales Tax Bonds, Series 2004 LST of the City of Wichita, Kansas, in the total principal amount of \$36,000,000, for the purpose of providing the necessary funds to pay costs with the construction of roads, highways and bridges in the City; pledging a portion of the county retailer's sales tax revenues allocated to the City for the payment of the principal of and the interest on the Bonds as they become due; providing for the levy and collection of an annual tax for the purpose of providing for the payment of any portion of the principal of and the interest on the bonds not paid from said sales tax revenues; and making certain other covenants and agreements with respect to the bonds. Mayans moved that the Ordinance be placed on its passage and adopted on the date of its introduction, all in accordance with K.S.A. 12-3001. Motion carried 7 to 0. Yeas: Brewer, Fearey, Lambke, Gray, Martz, Schlapp, Mayans.

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ORDINANCE NO.46- 223

An Ordinance authorizing and providing for the issuance of General Obligation Renewal and Improvement Temporary Notes, Series 211, of the City of Wichita, Kansas, in the total principal amount of \$52,300,000 for the purpose of providing the necessary funds to renew a portion of the principal amount of temporary notes previously issued for the interim financing of costs in connection with previously commenced capital improvements in the City, and for the interim financing of costs in connection with newly commenced capital improvements in the City; providing for the payment of the principal of and the interest on the notes; and making certain other covenants and agreements with respect thereto. Mayans moved that the Ordinance be placed on its passage and adopted on the date of its introduction, all in accordance with K.S.A. 12-3001. Motion carried 7 to 0. Yeas: Brewer, Fearey, Lambke, Gray, Martz, Schlapp, Mayans.

ORDINANCE NO.46- 225

An Ordinance authorizing and providing for the issuance of General Obligation Bonds, Series 778, of the City of Wichita, Kansas, in the total principal amount of \$12,175,000, for the purpose of providing the necessary funds to pay costs in connection with the making of capital improvements in the City; providing for the levy and collection of an annual tax for the purpose of providing for the payment of the principal of and the interest on the bonds as it becomes due and payable; and making certain other covenants and agreements with respect to the bonds. Mayans moved that the Ordinance be placed on its passage and adopted on the date of its introduction, all in accordance with K.S.A. 12-3001. Motion carried 7 to 0. Yeas: Brewer, Fearey, Lambke, Gray, Martz, Schlapp, Mayans.

ORDINANCE NO.46- 226

An Ordinance authorizing and providing for the issuance of General Obligation Bonds, Series 778A, of the City of Wichita, Kansas, in the total principal amount of \$565,000, for the purpose of providing the necessary funds to pay costs in connection with the making of capital improvements in the City; providing for the levy and collection of an annual tax for the purpose of providing for the payment of the principal of and the interest on the bonds as it becomes due and payable; and making certain other covenants and agreements with respect to the bonds. Mayans moved that the Ordinance be placed on its passage and adopted on the date of its introduction, all in accordance with K.S.A. 12-3001. Motion carried 7 to 0. Yeas: Brewer, Fearey, Lambke, Gray, Martz, Schlapp, Mayans.

PETITION

PETITION TO CONSTRUCT A SANITARY SEWER TO SERVE AN AREA ON THE EAST SIDE OF BYRON, SOUTH OF DOUGLAS. (DISTRICT V)

Jim Armour

Acting City Engineer reviewed the Item.

Agenda Report No. 04-0782

The signatures on the Petition represent 4 of 6 (66.67%) resident owners and 66.67% of the improvement district area. District V Advisory Board sponsored a June 9, 2004, neighborhood hearing on the project. The Board deferred action in order to receive additional information about alternative sewer alignments. On July 12, 2004, the Board voted 5-0 to recommend approval of the project as originally proposed.

The project will extend City sewer service to an area on the east side of Byron, south of Douglas. The area is currently served by private septic tank systems.

The estimated cost of the project is \$30,000 with the total assessed to the improvement district area. The proposed method of assessment is the square foot basis. The estimated assessment to individual properties is \$00.184 per square foot of ownership. As an infill project to an improvement district that is 100% residential, it will qualify for 20-year bonds.

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State Statutes provide that a Petition is valid if signed by more than a majority of resident property owners or by owners of the majority of the property in the improvement district.

- Mayor Mayans Mayor Mayans inquired whether anyone wished to be heard.
- Henry Harvey Mr. Harvey who resides at 120 South Byron, stated that the original proposal on this was to come down Bryon Street on the east side and that there have been discussions of three different methods of putting this in. Stated that it has been discussed coming through his property, which he would object to because he has a windbreak and does not have an easement. Stated that if they go through this 30-foot windbreak and cut a 20-foot easement will cost the City over \$10,000.00. Stated that these trees are 35 to 40 years old and that he has a dog pen there and an irrigation system and a septic tank where laterals run through it.
- Council Member Martz Council Member Martz stated that Mr. Henry has attended each of the DAB meetings and explained to Mr. Henry that this today is simply to adopt the petition and that part of what Mr. Harvey is talking about is in the design and the actual engineering, which still needs to be done. Stated at this point in time until the petition and resolution are approved, they cannot get in to do full design of the project and that the proposal is to allow the project to go forward to do the design work and that Mr. Henry will be included in that process.
- Jim Armour Mr. Armour, Acting City Engineer, explained that they looked at different options and that they were all more expensive. With the existing sanitary sewer line right on the north end of Mr. Harvey's property, it is more economical to come down this way. Stated that those options can still be explored once they hire a consulting engineering firm to take a look at it.
- Mayor Mayans Mayor Mayans asked Mr. Armour to have Staff visit with Mr. Harvey and discuss his issues and concerns.
- Motion--carried Martz moved that the Petition be approved and the Resolution adopted. Motion carried 7 to 0.

RESOLUTION NO. 04-387

Resolution of findings of advisability and Resolution authorizing construction of Lateral 34, Main 1, Westline Sewer (east of Byron, south of Douglas) 468-83831, in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Martz moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

ANIMAL CODE

REVISION OF ANIMAL MAINTENANCE CODE.

- Kay Johnson Environmental Health Officer reviewed the item.
- Agenda Report 04-0783
- Maintenance of domestic animals within the City is governed by Chapter 6.12 of the City Code. Standards specify the numbers and types of animals allowed, require proper sanitation of facilities, and provide for confinement of animals. Permits are required for maintenance of specified quantities or types of animals.
- Current regulations may not always preclude creation of nuisance conditions. Based on complaints received and conditions encountered, Environmental Health staff has drafted revisions to the present code. Major changes are detailed on the summary; and all changes are shown on the delineated code copy provided.
- The draft code was presented to all five District Advisory Boards for comment. Minor alterations and clarifications have been incorporated based on DAB member and other citizen input.
- Revised permit fees will generate \$10,000 to \$15,000 annually in additional revenue.

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- Council Member Gray Council Member Gray stated that he and his DAB have an issue with enclosures and not allowing property owners to be permanently grand-fathered concerns him and giving this discretion to a health officer whether or not they can continue with that variance.
- Kay Johnson Kay Johnson Environmental Health Officer explained that the present code does not allow for grand-fathering and with the variance they felt like that would address those issues that would come up regarding what is reasonable relative to the new code and to the existing properties. Stated that she does not feel that a variance would be difficult in light of what they are currently doing and what they might want to do in the future.
- Council Member Gray Council Member Gray stated that you are allowing by one individual to decide whether or not to grant the variance who may or may not be having a bad day and would feel more comfortable if the variance was granted by the Council as opposed to just one health officer and if that change were made he would be supportive of this. If not, he would propose to stay with the original code in this particular section with the way it reads.
- Motion--carried Mayans moved that this Item be deferred for one week. Motion carried 7 to 0.

WELLINGTON PLACE; MARKETING OF WELLINGTON PLACE, 1847 WELLINGTON PLACE; SUBMITTAL OF NATIONAL REGISTER NOMINATION FOR COMLEY HOUSE, 1137 NORTH BROADWAY AND MARKETING OF COMLEY HOUSE UPON DESIGNATION IN THE REGISTER OF HISTORIC KANSAS PLACES. (DISTRICT VI)

John Schlegel Planning Director reviewed the item.

Agenda Report 04-0784

Authorize sale of Wellington Place for a use in conformance with the Midtown Neighborhood Plan; submittal of a National Register nomination for the Comley House to the State Historic Preservation Office, and list the Comley House for sale, upon designation, for a use in conformance with the Midtown Neighborhood Plan. Price for properties shall be approved by City Council based on property appraisals.

At the July 15, 2003, City Council meeting, Property Management was directed to sell certain City properties. Wellington Place and the Comley House were withheld from the list pending completion of the Midtown Neighborhood Plan per the discussion at the June 24, 2003, City Council Workshop. May 18, 2004, the Midtown Neighborhood Plan was approved by City Council at the regular council meeting.

Wellington Place already has the financial incentives in place afforded by its status as a National Register property. Although the Comley House is listed in the Wichita Register of Historic places, that designation does not include the tax benefits available to a property listed in the State/National Register. State/National Register listing allows access to three specific financial incentives: twenty percent Federal Historic Income Tax Credit, twenty-five percent State Historic Income Tax Credit and the Kansas Heritage Trust Fund Grant. These programs are administered through the Kansas State Historic Preservation Office.

The Comley House would be eligible for listing in the State/National Register because of its association with Henry Comley, owner of Pond-Comley Lumber Company and Comley-Neff Lumber Company. The house is one of two houses left on Broadway, which was owned by lumber barons. At the turn of the 20th Century, Lawrence, now Broadway, was known locally as "Lumberman's Row." State/National Register listing of the Comley House would be advantageous to marketing the property.

The Federal Historic Income Tax Credit is twenty percent of the qualified rehabilitation costs and must be substantial. The substantial threshold is defined as projects in excess of \$5,000 or the adjusted basis of the building. Adjusted basis is the purchase price, minus land value, minus depreciation, plus cost of

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any improvements done since purchase. Federal Historic Income Tax Credits may be carried forward twenty years and back one year. Acquisition costs are not eligible rehabilitation costs.

Kansas State Historic Income Tax Credit is twenty percent of the qualified rehabilitation costs. The project cost must exceed \$5,000. There is no cap on project expenses nor is there a limit to the number of times you may apply and take the tax credit. The state historic income tax credit may be carried forward ten years.

The owner of the federal or state tax credits can elect to use the credits or transfer them to a qualified investor. The average market rate for Federal Historic Income Tax Credits is around \$0.90 for every dollar and the \$0.80 for State Historic Income Tax Credits.

The Heritage Trust Fund Grant is a competitive grant that is awarded annually. In order to be eligible to apply, the property must be listed in the State/National register at the time of application. The maximum grant awarded is \$90,000. Governmental entities, not-for-profit organizations and owners of private residences must provide a twenty percent cash match. For-profit entities are required to provide a 50 percent cash match.

Neither property has been valued for sale. Staff will commission appraisals on the properties. These will be used to develop minimum asking prices for each property. These values will be presented to the City Council for approval. Once approval is received, the properties will be marketed to the public.

Both of these properties already require design review by the Historic Preservation Board. Review by the State Historic Preservation Office would only be required if the property owner elected to apply for the Federal Historic Income Tax Credit, the Kansas Historic Income Tax Credit or the Kansas Heritage Trust Fund Grant.

There are no costs associated with submitting a nomination to the Kansas State Historic Preservation Office for consideration of listing a property in the state/national registers of historic places.

- | | |
|----------------------|--|
| Mayor Mayans | Mayor Mayans stated that he does not know what the Midtown Neighborhood Plan is and that the Council is being asked to vote on something that they know nothing about. Stated that he would like to defer this item for one week to see what this plan is and would like to add to the recommended action, that both properties are to be sold for no less than the county appraised value or any new appraisal value, which ever is more. |
| Council Member Martz | Council Member Martz asked if there is a policy for selling properties. |
| Gary Rebenstorf | Director of Law explained that it is the Council's policy and if the Council wishes to change how they do things then that is up to the Council. |
| George Kolb | City Manager stated that he would be recommending to the Council that whatever the appraisal turns out to be, they would set the price even higher for room to negotiate. |
| Carrie Clapp | Ms. Clapp stated that she is the great granddaughter of LW Clapp and is concerned about the Midtown Neighborhood Plan, which she has not seen the fate of the house and preserving the integrity of the house and honoring her great grandfather LW Clapp and what he did for the City of Wichita. |
| Motion--carried | Mayans moved that this Item be deferred for one week. Motion carried 7 to 0. |

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DE-ANNEXATION PUBLIC HEARING TO CONSIDER REQUEST FOR DE-ANNEXATION OF LAND. (DISTRICT I)

Gary Rebenstorf Director of Law reviewed the item.

Mayor Mayans momentarily absent, Vice-Mayor Brewer in the chair.

Agenda Report No. 04-0785

A petition has been filed by the owners of property located south of 53rd Street North and west of the Heights High School property. They own 80-acres which are presently within the city limits of the City of Wichita. Their petition seeks de-annexation.

State law provides that upon receipt of a petition for de-annexation from a city, a notice must be published twice in the official city paper and a hearing scheduled to hear all persons interested in such petition. Notice of the filing of this petition and of this hearing were published in the Wichita Eagle for two consecutive weeks. The governing body must consider whether any private rights will be injured or endangered by the de-annexation; whether the public will suffer any loss or inconvenience if the de-annexation is granted; and whether in justice to the petitioners the de-annexation should be granted. The governing body has full discretion to consider these matters.

If de-annexation is granted, this property will no longer be responsible for paying the City of Wichita mill levy as part of the ad valorem taxes collected against the property.

The petition for de-annexation is in proper legal form and the governing body is free to grant or deny the petition in its discretion.

Council Member Fearey Council Member Fearey asked if the City has ever de-annexed anything before and if this land is within the growth boundaries of Wichita or Park City.

Gary Rebenstorf Director of Law explained that this is a very rare procedure and this land is in on the line between Wichita and Park City that was agreed to by the parties and is basically in the growth boundary of Park City. Stated that this land is not platted and is undeveloped land.

Mayor Mayans Mayor Mayans inquired whether anyone wished to be heard and no one appeared.

Motion-- Brewer moved to close the public hearing, order that the petition for de-annexation be approved and the subject property be excluded from the boundaries of the City of Wichita, based on the following findings: 1) due and legal notice has been given by publication; 2) no written objection to the exclusion has been filed with the City Clerk; 3) no private rights will be injured or endangered by the exclusion; 4) the public will suffer no loss or inconvenience by this action; and 5) that in justice to the petitioners the prayer of the petitioners ought be granted. Motion carried 7 to 0.

--carried

CITY COUNCIL AGENDA

APPTS. BOARD APPOINTMENTS.

Fearey requested to reappoint Jaya Escobar to DABVI, appoint Garrett Harmon to DABVI youth appointment and appoint Khanh Nguyen to the Diversity Task Team.

Gray requested to accept the resignation of Rex Gray from DABIV and to appoint Joshua Blick.

Lambke requested that the following people be appointed to DAB III: Judy Dillard, Jim Gulick, Matt Foley, Joanne Hartig, Charlotte Foster, Laura Simpson, Phyllis Hall, William Ward and John Kemp.

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Mayans requested that Rev. Deann Smith as the Chair to the Community Council on Homeless Advocacy and Stephanie McFarlin as Section 8 Client to the Housing Advisory Board be appointed.

Motion -- carried

Mayans moved that the appointments and resignation be approved. Motion carried 7 to 0.

CONSENT AGENDA

Motion--
--carried

Mayans moved that the Consent Agenda, except Item 20E, be approved as consensus Items. Motion carried 7 to 0.

BOARD OF BIDS

REPORT OF THE BOARD OF BIDS AND CONTRACTS DATED AUGUST 2, 2004.

Bids were opened July 30, 2004, pursuant to advertisements published on:

PUBLIC WORKS DEPARTMENT/ENGINEERING DIVISION: Sewers, Paving and Water Mains as per specifications.

2004 contract maintenance bridge deck resurfacing of the northbound Broadway Bridge over the Arkansas River - north of Carp Street on Broadway. (472-83947 /132716/) Road closed to through traffic, local traffic only. (District III)

Progressive Contractors - \$117,602.40

2004-2005 CDBG street, curb, gutter and sidewalk improvements (sidewalk repairs) - north of 8th Street North, east of Washington (472-83906/602551/800402_010111) Traffic to be maintained during construction using flagpersons and barricades. (District I)

McFadden Construction - \$90,000.00 (Engineer's estimate)

Killenwood Court from the east line of Killenwood Court to and including the cul-de-sac serving Lots 11 through 22, Block 1 to serve Killenwood Pointe Addition - south of 13th Street North, east of Greenwich. (472-83269/765884/490995) Does not affect existing traffic. (District II)

Kansas Paving Company - \$115,805.25

Clara Street, from the east line of Doris Street, east and south to the south line of the plat; Doris Street, from the south line of 13th Street North to the south line of the plat; Sidewalk along one side of Doris Street to serve Steve Kelley 5th Addition (south of 13th Street North, east of Hoover Road) (472-83993/765875/490986) Does not affect existing traffic. (District VI)

Kansas Paving Company - \$176,554.50

Kansas Air Museum Restoration, Phase 2 - George Washington Blvd. at 31st Street South. (792419/602386/435389/800002,060110) Does not affect existing traffic. (District III)

Rainbow Construction* - \$721,350.00 (Total base bid)
\$ 40,600.00 (Add alternate 1)
\$ 72,908.00 (Add alternate 2)

*Subject to KDOT approval

Motion--
--carried

Mayans moved that the contract(s) be awarded as outlined above, subject to check, same being the lowest and best bid within the Engineer's construction estimate, and the and the necessary signatures be authorized. Motion carried 7 to 0.

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WATER & SEWER DEPARTMENT/SEWAGE TREATMENT DIVISION: Rubber- Tired Utility Vehicle.

Wichita Tractor Co. - \$15,260.00 (Group 1 total net bid)

PUBLIC WORKS DEPARTMENT/BUILDING SERVICES DIVISION: Life Safety Systems Test & Inspection.

\$12,675.00* (Group 1/total net bid)

*Estimate – Contract approved on unit cost basis; refer to attachments.

PARK DEPARTMENT/RECREATION DIVISION: Furnish and Install Landscape Structure Spacenet Playground Equipment.

Landscape Structures* -\$18,800.00 (One each Spacenet Model 3140 at Planeview Park)

\$20,210.00 (One each Spacenet Model 3633 at Claude Lambe Park)

*Purchases Utilizing Government Entities Contracts, Cooperative Contracts and Agreements/Ordinance No. 38-122 Section 2.64.020 (j). U.S. Communities Contract #040377/Playground Equipment.

Motion--
--carried

Mayans moved that the report be received and filed; the Contracts approved and the necessary signatures authorized. Motion carried 7 to 0.

CMB

APPLICATIONS FOR LICENSE TO RETAIL CEREAL MALT BEVERAGES:

Renewal

2004

(Consumption on Premises)

Buivan Hanh

Saigon Restaurant, Inc.* 1103 North Broadway

*General/Restaurant - 50% or more of gross receipts derived from sale of food.

Motion--
--carried

Mayans moved that the license, subject to Staff review and approval, be approved. Motion carried 7 to 0.

DEEDS/ESMNTS

DEEDS AND EASEMENTS:

a) Water Easement dated July 13, 2004 from Golake, Inc. for tracts of land located in the Northwest Quarter of Section 9, Township 28 South, Range 1 East of the 6th P.M., Sedgwick County, Kansas (Project 448-89924, OCA #735176). No cost to City.

b) Water Easement dated July 13, 2004 from Clifford E. Culver for a tract of land located in the Northwest Quarter of Section 9, Township 28 South, Range 1 East of the 6th P.M., Sedgwick County, Kansas (Project 448-89924, OCA #735176). No cost to City.

c) Utility Easement dated June 17, 2004 from Twenty First Growth Property, L.L.C., for tracts of land located in Lots 1 and 2, Block 1, Hawthorne Addition, and addition to Wichita, Sedgwick County, Kansas and Lots 21 and 22, Block 1, Hawthorne Second Addition, and addition to Wichita, Sedgwick County, Kansas (Private Project, OCA #607861). No cost to City.

d) Drainage Easement dated July 2, 2004 from Kelley & Coleman, Inc., a Kansas Corporation for a tract of land located in Lot 3, Block A, Steve Kelley 5th Addition, Wichita, Sedgwick County, Kansas (Private Project, OCA #607861). No cost to City.

Motion--carried

Mayans moved that the documents be accepted. Motion carried 7 to 0.

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MID-CONT. INDUS. SANITARY SEWER TO SERVE PART OF LOT 1, BLOCK B, MID-CONTINENT INDUSTRIAL PARK II ADDITION, NORTH OF MACARTHUR, EAST OF MAIZE. (DISTRICT IV)

Agenda Report No. 04-0786

The Petition has been signed by one owner, representing 100% of the improvement district.

The project will provide sanitary sewer service to an industrial site located north of MacArthur, east of Maize.

The Petition totals \$14,000. The funding source is special assessments.

State Statutes provide that a Petition is valid if signed by a majority of resident property owners or the majority of the property in the improvement district.

Motion--carried Mayans moved that the Petition be approved and the Resolution adopted. Motion carried 7 to 0.

RESOLUTION NO. 04-388

Resolution of findings of advisability and Resolution authorizing construction of Lateral 2, Main 3, Cowskin Interceptor Sewer (north of MacArthur, east of Maize) 468-83847, in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

27TH STREET SOUTH PAVE 27TH STREET SOUTH, WEST OF MCLEAN BOULEVARD. (DISTRICT IV)

Agenda Report No. 04-0787

The City's projects that are funded by special assessments are bonded under the authority of Kansas Statute 12-6a01. The petitions and resolutions associated with such projects are routinely reviewed by the State Attorney General's office. The City's Bond Counsel has advised that a petition and resolution for paving 27th Street South, west of McLean, which were approved on October 21, 2003, and amended on May 4, 2004, need to be revised to reflect an amendment to State Statutes. The amendment provides more flexibility in the determination of improvement district boundaries.

A new petition has been obtained, which has been signed by the owner of all land in the improvement district. The new petition contains the updated statutory reference.

The project budget is unchanged.

State Statutes provide that a Petition is valid if signed by a majority of resident property owners or the majority of the property in the improvement district.

Motion--carried Mayans moved that the Petition be approved and the Resolution adopted. Motion carried 7 to 0.

RESOLUTION NO. 04-389

Resolution of findings of advisability and Resolution authorizing improving 27th Street South from the west line of McLean Boulevard to the east line of Exchange Place, 472-83860, in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

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STEVE KELLY ADD. PAVE STREETS IN STEVE KELLY 5TH ADDITION, SOUTH OF 13TH STREET, EAST OF HOOVER. (DISTRICT VI)

Agenda Report No. 04-0788

On April 20, 2004, the City Council approved a Petition to pave streets in Steve Kelly 5th Addition. An attempt to award a contract within the budget set by the petition was not successful. The developer has submitted a new Petition with an increased budget. The signatures on the new Petition represent 100% of the improvement district.

The project will serve a new residential development located south of 13th, east of Hoover.

The existing Petition totals \$183,000. The new Petition totals \$217,000. The funding source is special assessments.

State Statutes provide that a Petition is valid if signed by a majority of resident property owners or owners of the majority of the property in the improvement district.

Motion--carried Mayans moved that the Petition be approved and the Resolution adopted. Motion carried 7 to 0.

RESOLUTION NO. 04-390

A Resolution amending Resolution No. 04-201 pertaining to Clara Street, from the east line of Doris Street, east and south to the south line of the Plat. Doris Street, from the south line of 13th Street North to the south line of the Plat. Sidewalk to be constructed along one side of Doris Street (south of 13th Street, east of Hoover) 472-83993, in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

RIVENDALE ADD. STREET PAVING AND WATER DISTRIBUTION SYSTEM FOR RIVENDALE ADDITION, NORTH OF 55TH STREET SOUTH, WEST OF HYDRAULIC. (DISTRICT III)

Agenda Report No. 04-0789

The Petitions have been signed by one owner, representing 100% of the improvement districts.

These projects will provide paving and a water distribution system to a new residential development located north of 55th Street South, west of Hydraulic.

The Petitions total \$466,000. The funding source is special assessments.

State Statutes provide that a Petition is valid if signed by a majority of resident property owners or the majority of the property in the improvement district.

Motion--carried Mayans moved that the Petitions be approved and the Resolutions adopted. Motion carried 7 to 0.

RESOLUTION NO. 04-391

Resolution of findings of advisability and Resolution authorizing construction of Water Distribution System Number 448-89888 (north of 55th Street South, west of Hydraulic), in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

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RESOLUTION NO. 04-392

Resolution of findings of advisability and Resolution authorizing improving Victoria Ct., from Victoria south to and including the cul-de-sac, to serve Lots 30 through 43, Block C. Pattie, north from Maywood to the south line of Lot 26, Block B, on Maywood, from the west line of Lot 22, Block B, east to Victoria, on Victoria, from 55th Street South, north to the south line of Lot 10, Block E. Sidewalk be constructed on one side of Pattie, Maywood and Victoria, 472-83868 (north of 55th Street South, west of Hydraulic), in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

STREET CLOSURES CONSIDERATION OF STREET CLOSURES/USES.

In accordance with the Special Events Procedure, event sponsors are to notify adjacent property owners and coordinate arrangements with Staff, subject to final approval by the City Council.

The following street closure requests have been submitted:

§ Success Incorporated – Summer Bash – Saturday, August 7, 2004
 Ninth Street from Wabash to Mosley
 Washington from 8th Street to 9th Street
 All lanes from 8:00 a.m. – 10:00 p.m. for Gospel Concert

Security is arranged to remove blockades as necessary to allow emergency vehicle access during entire designated time period

Inasmuch as possible, event sponsors are responsible for all costs associated with special events.

Motion--

Mayans moved that the street closures be approved, subject to: (1) Event sponsors notifying every property and/or business adjoining any portion of the closed street; (2) Coordination of event arrangements with City Staff; (3) Hiring off-duty public safety officers as required by the Police Department; (4) Obtaining barricades to close the streets in accordance with requirements of Police, Fire and Public Works Department; (5) Submitting a Certificate of Insurance evidencing general liability insurance which covers the event and its related activities, including the naming of the City as an additional insured with respect to the event's use of the closed City streets. Motion carried 7 to 0.

--carried

AVALON PARK ADD. CHANGE ORDER: STORM WATER DRAIN FOR AVALON PARK ADDITION, NORTH OF 137TH STREET NORTH, EAST OF TYLER. (DISTRICT V)

Agenda Report No. 04-0790

On March 2, 2004, the City Council approved a contract to construct a storm water drain for Avalon Park Addition. A part of the work is the construction of three detention ponds. Excavation of the first pond revealed that groundwater levels are significantly lower than the levels encountered during the design process. As a result, a clay soil liner is needed to provide a functionally maintainable pond with the proper pool elevation.

A Change Order has been prepared for the additional work. Funding is available within the project budget.

The total cost of the additional work is \$20,953, with the total paid by special assessments. The original contract amount is \$137,745. The Change Order represents 15.21% of the original contract amount.

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The Change Order amount is within 25% of the construction contract cost limit set by the City Council policy.

Motion--
--carried

Mayans moved that the Change Order be approved and the necessary signatures authorized. Motion carried 7 to 0.

FINANCIAL REPORT QUARTERLY FINANCIAL REPORT FOR THE PERIOD ENDED JUNE 30, 2004

Agenda Report No. 04-0791

The Department of Finance prepares a quarterly financial report and customarily presents the report to the City Council on the consent agenda. The Quarterly Financial Report for the period ending June 30, 2004 presents information consistent with past reports, but beginning with this quarterly, in the section titled "Other Financial/Operational Information", payments to minority owned businesses is also included. The additional information is provided to inform the City Council and the public of the changes arising from the progress on engaging minority owned businesses in purchases made by the City.

The City's Quarterly Financial Report is designed to provide interested parties information on the government's financial position as the year progresses and subsequent to the financial audit of the prior year. The Quarterly Financial Report is also designed to keep the City Council and City Staff informed regarding trends in revenue and expenditures.

The Quarterly Financial Report for the period ending June 30, 2004 reports the financial status of the City's funds. The financial report does not include special accruals of revenue and expenditures that are made at year-end to fully account for all activity in the reporting period. The information is not audited but is compiled in accordance with generally accepted accounting principles and government accounting standards.

Motion--
--carried

Mayans moved that the Quarterly Financial Report for the period ending June 30, 2004 be received and filed. Motion carried 7 to 0.

AGREEMENTS CONTRACTS, AGREEMENTS AND PURCHASE ORDERS FOR JULY 2004.

Motion--carried

Mayans moved that the report be received and filed. Motion carried 7 to 0.

PINE BAY ESTATES RESPREAD ASSESSMENTS: PINE BAY ESTATES ADDITION, EAST OF HYDRAULIC, SOUTH OF 63RD STREET SOUTH. (DISTRICT III)

Agenda Report 04-0792

The landowners, Ink Construction, L.L.C.; G & J Properties, Inc.; and Darrell G. & Alma J. Schofield, have submitted an Agreement to respread special assessments within Pine Bay Estates Addition.

The land was originally included in several improvement districts for a couple of public improvement projects. The purpose of the Agreement is to respread special assessments on a fractional basis for each lot, therefore, distributing the cost of the improvements more fairly. Without the Agreement, the assessments will remain spread on a square foot basis.

There is no cost to the City.

Motion--
--carried

Mayans moved that the Agreement be approved and the necessary signatures authorized. Motion carried 7 to 0.

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ENGLISH COUNTRY RESPREAD ASSESSMENTS: ENGLISH COUNTRY GARDENS, EAST OF TYLER, NORTH OF 13TH STREET NORTH. (DISTRICT V)

Agenda Report 04-0793

The landowner, Mullin Construction, L.L.C., platted English Country Gardens and has submitted an Agreement to respread special assessments within the Addition.

The land was originally included in a couple of improvement districts for several public improvement projects. The purpose of the Agreement is to respread special assessments on a fractional basis for each lot. Without the Agreement, the assessments will be spread on a square foot basis.

There is no cost to the City.

Motion-- Mayans moved that the Agreement be approved and the necessary signatures authorized. Motion
--carried carried 7 to 0.

MY HOUSE ADD. RESPREAD ASSESSMENTS: MY HOUSE ADDITION, SOUTH OF 55TH STREET SOUTH, WEST OF BROADWAY. (DISTRICT IV)

Agenda Report 04-0794

The landowner, My House, L.L.C., platted My House Addition and has submitted an Agreement to respread special assessments within the Addition.

The land was originally included in an improvement district for a water distribution project. The purpose of the Agreement is to respread special assessments on a fractional basis for each lot. Without the Agreement, the assessments will be spread on a square foot basis.

There is no cost to the City.

Motion-- Mayans moved that the Agreement be approved and the necessary signatures authorized. Motion
--carried carried 7 to 0.

ELECTROMECH RIGHT OF WAY, ELECTROMECH TECHNOLOGIES. (DISTRICT IV)

Agenda Report No.04-0795

Electromech Technologies has entered into a Voluntary Cleanup Agreement with the Kansas Department of Health and Environment for a groundwater remediation project in the vicinity of their facility at 2600 South Custer. A recovery well is proposed to be located in the public right-of-way near the intersection of West 27th Street and Richmond. Groundwater from the well would be piped to a treatment plant on the facility property using public right-of-way as shown on Sheet No. 1.

A Right-of-Way Agreement has been developed to allow the use of a specific route for the well and associated pipe. The City Engineers Office has reviewed and approved the route and construction details for the portion of the project that would be in public right-of-way.

The proposed Right-of-Way Agreement provides for compensation to the City for use of the right-of-way of \$2.50 per foot per year for the life of the project. The annual compensation for 800 feet of ROW used is estimated at \$2,000 per year.

Motion-- Mayans moved that the agreement be approved and the necessary signatures authorized. Motion
--carried carried 7 to 0.

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(Agenda Item No. 20E)
RIVERSIDE PARK

**AMENDMENTS #1 TO THE SUPPLEMENTAL AGREEMENT FOR CONSTRUCTION
ENGINEERING, STAKING AND FULL-TIME INSPECTION FOR IMPROVEMENTS TO
RIVERSIDE PARK. (DISTRICT VI) – SUPPLEMENTAL.**

Agenda Report No. 04-0796

The City Council approved major modifications to the Riverside Park System in the CIP. On November 14, 2000, the Council approved an agreement with Wilson Darnell Mann P.A. (WDM) to design the improvements. The Contract for Architectural Services with WDM listed the construction related services which they were to provide, and included the phrase, "Should the project scope or budget be revised upward at any point during the process, the design team will be compensated accordingly through supplemental agreement(s)."

Work required per the WDM design was awarded in two separate construction contracts. City personnel were unavailable to perform the fieldwork required by this project. On February 11, 2003, the City Council approved a Supplemental Agreement with WDM to provide construction engineering, staking and full-time inspection for work included in both construction contracts.

The Supplemental Agreement contained the following paragraph: "All work shall be performed on a time and cost basis. The minimum fee shall be \$280,000, and the maximum fee shall be \$340,000. If the ARCHITECT's time and costs exceed the stated maximum fee, and if the project lasts longer than 12 months from construction start to completion, the ARCHITECT may submit documentation to the OWNER to substantiate a request for additional fees."

The construction contract for all park improvements excluding the streets is currently over 7 months behind schedule and is not yet completed. The contractor has been notified that Liquidated Damages are being charged for their added time to complete the project. WDM's work under the Supplemental Agreement continues due the contractor being behind schedule. WDM's services have been cut from full-time to part-time, but their maximum contracted fee has been expended, and under the terms of the Supplemental Agreement, additional fees are required.

The maximum fee included in the Supplemental Agreement will be increased from \$340,000 to \$380,000, and will be paid from project funds. This is an 11.76% increase, and it exceeds the 10% maximum increase contained in the City Council guidelines. However, the Liquidated Damages being assessed against the contractor will help offset the increased fees, thus keeping the net increase well within the 10% limit.

Motion--
--carried

Mayans moved that the Amendment #1 to the Supplemental Agreement be approved and the necessary signatures be authorized. Motion carried 7 to 0.

BRENTWOOD ADD.

**BRENTWOOD SOUTH SECOND ADDITION, NORTH OF PAWNEE, EAST OF WEBB.
(DISTRICT II)**

Agenda Report No. 04-0797

The City Council approved the water distribution system, sanitary sewer and paving improvements in Brentwood South 2nd Addition on May 18, 2004.

The proposed Agreement between the City and Ruggles & Bohm, P.A. (R&B) provides for the design of bond financed improvements consisting of water distribution system, sanitary sewer and paving in Brentwood South 2nd Addition. Per Administrative Regulation 7a, staff recommends that R&B be hired for this work, as this firm provided the preliminary engineering services for the platting of the subdivision and can expedite plan preparation.

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Payment to R&B will be on a lump sum basis of \$23,340, and will be paid by special assessments.

Motion--
--carried

Mayans moved that the Agreement be approved and the necessary signatures authorized. Motion carried 7 to 0.

KILLENWOOD

KILLENWOOD POINTE ADDITION, SOUTH OF 13TH STREET, EAST OF GREENWICH. (DISTRICT II)

Agenda Report No. 04-0798

The City Council approved the water distribution system and paving improvements in Killenwood Pointe Addition on September 26, 2000.

The proposed Agreement between the City and MKEC Engineering Consultants, Inc. (MKEC) provides for the design of bond-financed improvements consisting of water distribution system and paving in Killenwood Pointe Addition. Per Administrative Regulation 7a, staff recommends that MKEC be hired for this work, as this firm provided the preliminary engineering services for the platting of the subdivision and can expedite plan preparation.

Payment to MKEC will be on a lump sum basis of \$11,450, and will be paid by special assessments.

Motion--
--carried

Mayans moved that the Agreement be approved and the necessary signatures authorized. Motion carried 7 to 0.

AVALON PARK

AVALON PARK, NORTH OF 37TH STREET NORTH, EAST OF TYLER. (DISTRICT V)

Agenda Report No. 04-0799

The City Council approved the water distribution system, sanitary sewer, storm water drainage and paving improvements in Avalon Park on September 9, 2003.

The proposed Agreement between the City and Professional Engineering Consultants, P.A. (PEC) provides for the design of bond financed improvements consisting of water distribution system, sanitary sewer, storm water drainage and paving in Avalon Park. Per Administrative Regulation 7a, staff recommends that PEC be hired for this work, as this firm provided the preliminary engineering services for the platting of the subdivision and can expedite plan preparation.

Payment to PEC will be on a lump sum basis of \$46,800, and will be paid by special assessments.

Motion--
--carried

Mayans moved that the Agreement be approved and the necessary signatures authorized. Motion carried 7 to 0.

PROPERTY ACQ.

ACQUISITION OF 2403 SOUTH WASHINGTON FOR PAWNEE WASHINGTON INTERSECTION IMPROVEMENT PROJECT. (DISTRICT III)

Agenda Report No. 04-0800

On October 21, 2003, the City Council approved the improvement of the intersection of Pawnee and Washington. The project will require the acquisition of several parcels of land and easements. One of the required acquisitions is a 1,397 square foot single-family residence at 2403 South Washington. The property has 3 bedrooms and 1.5 baths and is frame construction. The property is owner-occupied.

The property was appraised at \$47,000. This amount was offered to the owners and accepted. The owner will be relocated, the improvements will be removed and the site utilized for widening Pawnee,

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placement of the sidewalk and landscaping.

The funding source for the project is General Obligation bonds and Federal monies. A budget of \$75,000 is requested. This includes \$47,000 for the acquisition, \$5,000 for demolition, \$22,000 for relocation and \$1,000 for title work and closing costs.

Motion--
--carried

Mayans moved that the budget be approved and the necessary signatures authorized. Motion carried 7 to 0.

PROPERTY ACQ.

ACQUISITION OF PORTION OF 2356 SOUTH WASHINGTON FOR PAWNEE AND WASHINGTON INTERSECTION IMPROVEMENT PROJECT. (DISTRICT III)

Agenda Report No. 04-0801

On October 21, 2003, the City Council approved the improvement of the intersection of Pawnee and Washington. The project will require the acquisition of several parcels of land and easements. One of the required acquisitions is a portion of 2356 South Washington. The site has 11,900 square feet and is improved with an auto service facility. The project will utilize a 450 square foot triangle at the southwest corner of the parcel. The project also requires a temporary easement along the west and south sides of the property and the relocation or replacement of a business sign.

The acquisition was appraised at \$6,860 if the sign had to be replaced or \$3,600 if the sign could be moved. The owner was offered \$3,600. The owner felt that the sign could be moved but estimated the cost at \$1,400 instead of the \$1,000 used the appraiser. The owner agreed to accept \$4,000 based on the higher cost to move the sign. The site will be utilized for widening Pawnee, placement of the sidewalk and landscaping.

The funding source for the project is General Obligation bonds and Federal monies. A budget of \$5,000 is requested. This includes \$4,000 for the acquisition, and \$1,000 for title work and closing costs.

Motion--
--carried

Mayans moved that the budget be approved and the necessary signatures authorized. Motion carried 7 to 0.

PROPERTY ACQ.

ACQUISITION OF PART OF 5455 EAST CENTRAL FOR CENTRAL, OLIVER TO WOODLAWN. (DISTRICTS I & II)

Agenda Report No. 04-0802

On November 4, 2003 City Council approved a project to improve Central, between Oliver and Woodlawn. The improvement plans call for partial acquisitions of seven parcels. One of the required parcels is located at 5455 East Central. The acquisition requires a 668 square foot strip of land. The property has a large commercial building located on a 39,823 square foot site. The property is owner-occupied.

The property was valued at \$3,665; the property owners have agreed to accept \$3,800. The improvements will not be impacted by this acquisition.

The funding source for the City share of the project is General Obligation Bonds. The project also utilizes Federal monies. A budget of \$4,500 is requested. This includes \$3,800 for the acquisition, and \$700 for closing costs and title insurance.

Motion--
--carried

Mayans moved that the Budget be approved; the Real Estate Purchase Contracts be approved and the necessary signatures authorized. Motion carried 7 to 0.

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PROPERTY ACQ.

ACQUISITION OF PART OF 4820 EAST CENTRAL FOR CENTRAL, OLIVER TO WOODLAWN. (DISTRICT I & II)

Agenda Report No. 04-0803

On November 4, 2003 City Council approved a project to improve Central, between Oliver and Woodlawn. The improvement plans call for partial acquisitions of seven parcels. One of the required parcels is located at 4820 East Central. The acquisition requires a 400 square foot strip of land. The property has a tenant occupied retail building located on a 13,801 square foot site.

The property owners have agreed to accept \$5,250 as compensation for the right-of-way, temporary easement and damages to planter and landscaping. The building improvements will not be impacted by this acquisition.

The funding source for the City share of the project is General Obligation Bonds. Project funding also included Federal monies. A budget of \$6,000 is requested. This includes \$5,250 for the acquisition, and \$750 for closing costs and title insurance.

Motion--
--carried

Mayans moved that the Budget and Real Estate Purchase Contracts be approved and the necessary signatures authorized. Motion carried 7 to 0.

PROPERTY ACQ.

ACQUISITION OF PORTION OF 10121 WEST 29TH STREET NORTH FOR THE 29TH STREET NORTH, MAIZE TO TYLER IMPROVEMENT PROJECT. (DISTRICT V)

Agenda Report No. 04-0804

The widening and improvement of 29th Street North, Maize to Tyler is included in the approved 2002-2011 Capital Improvement Program adopted by the City Council. As part of this project, 29th Street will have a four-lane roadway with a landscaped median. These improvements will require the acquisition of a portion of the agricultural, wetlands and residential property on the southeast corner of Maize and 29th Street, commonly known as 10121 West 29th Street North. The site contains 74.79 acres and is improved with a single-family residence with outbuildings. The taking requires 1.15 acres and does not impact the improvements.

The acquisition was appraised at \$15,960 for the 1.15-acre acquisition, an 800 square foot permanent drainage easement and the .14-acre temporary easement. The owner has agreed to a negotiated amount of \$34,500. This is the last parcel required for the project.

The Capital Improvement Program includes funds for road improvements. The funding source for the City Share is General Obligation Bonds. A budget of \$36,000 is requested. This includes \$34,500 for the acquisition and \$1,500 for closing costs and title insurance.

Motion--
--carried

Mayans moved that the Budget and Real Estate Purchase Contract be approved and the necessary signatures authorized. Motion carried 7 to 0.

CONDEMNATION

REPAIR OR REMOVAL OF DANGEROUS AND UNSAFE STRUCTURE.

Agenda Report 04-0805

On July 12, 2004 the Board of Code Standards and Appeals (BCSA) held a hearing on the following property. This property is considered a dangerous and unsafe structure, and is being presented to schedule a condemnation hearing before the Governing Body.

Improvement notices were issued on this structure, however, compliance has not been achieved. Pre-condemnation and formal condemnation letters were issued and the time granted has expired. No action has been taken to repair or remove this property.

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Property Address

a. 2869 South Davidson

Council District

III

This structure has defects that under Ordinance No. 28-251 of the Code of the City of Wichita shall cause it to be deemed as a dangerous and unsafe building, as required by State Statute for condemnation consideration.

Motion--

moved that the Resolution scheduling a public hearing to place this matter on the agenda for a Hearing before the Governing Body on September 14, 2004, at 9:30 a.m., or soon thereafter, be adopted.

--carried

Motion carried 7 to 0.

RESOLUTION NO. 04-393

A Resolution fixing a time and place and providing for notice of a hearing before the governing body of the City of Wichita, Kansas, at which the owner, his agent, lienholders of record and occupants of property legally described as Lot 19, Block B, Planeview Sub-Division No. 2, Sedgwick County, Kansas, known as 2869 South Davidson, may appear and show cause why such structure should not be condemned and ordered repaired or demolished as a dangerous structure, presented. Mayans moved that the Petition be approved and the Resolution be adopted. Motion carried 7 to 0. Mayans absent. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

CLAIM

SETTLEMENT OF CLAIM-KATHRYN SWART.

Agenda Report 04-0806

This lawsuit, Kathryn Swart v. City of Wichita, Sedgwick County Case No. 04 C 1074 results from an automobile accident involving a City vehicle at 100 N. Hillside. Plaintiff alleges that the driver of the truck failed to use due care in avoiding her vehicle stopped at the scene of a water line rupture that had halted traffic. The City truck struck plaintiff's vehicle from behind.

After investigating the claim, evaluating the extent of the claimed damages, and considering the risks of trial, the City determined that a resolution of this matter was appropriate. After some discussion, the City has been offered an opportunity to resolve the claim with a lump sum payment of \$32,000 as settlement of the claims against the city arising out of this event. Because of the risks associated with litigation, the Law Department recommends acceptance of the offer.

Funding for this settlement payment is from the Tort Claims Fund.

The Law Department recommends acceptance of the offer of settlement.

Motion--

Mayans moved that the payment of \$32,000 as a full settlement of all possible claims against the City of Wichita arising out of the motor vehicle accident be approved. Motion carried 7 to 0.

--carried

EMPLOYEE RETIRE. WICHITA EMPLOYEES' RETIREMENT SYSTEM. PROPOSED REVISION OF CITY CODE SECTION 2.28.080, TO ESTABLISH AN ATTENDANCE POLICY FOR THE ELECTED MEMBERS OF THE BOARD OF TRUSTEES.

Agenda Report 04-0807

The Wichita Employees' Retirement System's Board of Trustees consists of 16 members as follows: the City Manager or a designee; an employee member appointed by the City Manager; seven members appointed by the City Council; and seven employee members elected by employee participants in the Wichita Employees' Retirement System. City Code Section 2.12.020, Subsection (7) governs the attendance requirements of City Council appointed members and the procedure for their removal in the event of nonattendance. Nonattendance of other Board members is not addressed in the current ordinance.

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The Board of Trustees meets on the third Wednesday of each month. A quorum (9 trustees) is needed for business to be conducted. In addition, when deliberating disability requests, proposed ordinance changes or the hiring or dismissal of consultants, a minimum of 9 affirmative votes is required for passage. Therefore, it is very important for trustees to attend meetings as often as possible.

The proposed revision incorporates the attendance policy already in place for City Council appointed trustees under City Code Section 2.12.020, Subsection (7) and extends the policy to cover the seven trustees elected by employee participants of the Retirement System. The current policy states that appointed members will be removed from office for nonattendance of three consecutive meetings, or for absence of more than 50% of the meetings held during any 12-month period. The Board of Trustees approved the submission of this revision of City Code Section 2.28.080 at their June 16, 2004 meeting.

There are no costs associated with this action.

Motion--carried Mayans moved that the Ordinance be placed on first reading. Motion carried 7 to 0.

ORDINANCE

An Ordinance revising City Code Section 2.28.080 of the Wichita Employees' Retirement System. establishing an attendance policy for the elected members of the board of trustees, introduced and under the rules laid over.

MUN. INVEST. POOL MUNICIPAL INVESTMENT POOL RESOLUTION TO OPEN ACCOUNT.

Agenda Report No. 04-0808

State law, City ordinance and the City's investment policy govern the investment of City funds. The City's existing investment policy was approved by the City Council in December of 2001. The 2001 investment policy added the option of investing up to 10% of the City's investment portfolio in the State's Municipal Investment Pool (MIP).

Until recently, other investment vehicles were more attractive than the MIP. Changes in the City's banking relationship as well as additional liquidity requirements now make the pool a more desirable investment vehicle. The City also anticipates using the pool for direct deposit of State Automated Clearing House (ACH) funds. The addition of the MIP adds diversification to the City's pooled fund investment portfolio.

There is no direct cost to the City for utilizing the Municipal Investment Pool. State distributions that are deposited into the pool will begin earning interest one day earlier. Interest earnings are distributed monthly and are net of a 25 basis point fee. The MIP is totally liquid and the City can draw funds with same day notification prior to 10:00 am.

Motion--
--carried Mayans moved that the Resolution establishing an account in the State of Kansas Municipal Investment Pool is approved and the necessary signatures authorized. Motion carried 7 to 0.

RESOLUTION NO. 04-410

A Resolution authorizing Municipal Investment Pool to open an account, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

HOMELESS MANAG. HOMELESS MANAGEMENT INFORMATION SYSTEM.

Agenda Report 04-0809

On February 5, 2002 the City Council approved Community Development Block Grant (CDBG) funding in the amount of \$24,220 to assist the United Way of the Plains with the match requirement for

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the 2001 HUD Homeless SuperNOFA to implement a Homeless Management Information System (HMIS).

In 2001, Congress mandated that all communities receiving HUD homeless funding have a Homeless Management Information System (HMIS) in place within three years. During 2002 the United Way implemented the HMIS program for Wichita-Sedgwick County with eight homeless organizations online reporting data during 2004.

United Way of the Plains will use funding from the 2004 HUD Continuum of Care Supportive Housing Program (Homeless SuperNOFA) to install hardware, upgrade software, connectivity, training and personnel for the collection of homeless data for the Wichita-Sedgwick County community. The United Way projects to initiate online homeless data collection with ten additional organizations that provide homeless services.

The grant application submitted to HUD totaling \$254,000 is a three-year grant and the local matching funds requirement is \$84,750. Sedgwick County has committed \$10,000 to the match requirement. The United Way will provide \$50,530, leaving a \$24,220 gap. The local match would be used for hardware and software costs.

The cash match required for the HMIS grant totals \$84,750, of which the United Way of the Plains has requested the City of Wichita provide \$24,220. The City has previously allocated CDBG funding for matching the 2001 HMIS grant. CDBG Program income is available to provide matching funds for the 2004 SuperNOFA HMIS grant of \$24,220.

Congress has mandated implementation and continued operation of a Homeless Management Information System for communities that receive HUD SuperNOFA funding. The City of Wichita receives SuperNOFA funds. Matching funds provided from the City's CDBG program will require a substantial amendment to the 2004-2008 City of Wichita Consolidated Plan and a public notice allowing 30 days for public comment.

Motion--
--carried

Mayans moved that the CDBG funding in the amount of \$24,220 and the public notice for the substantial amendment be approved. Motion carried 7 to 0.

FIDELITY SAVINGS

LEASE TERMINATION RELATED TO CITY OF WICHITA TAXABLE INDUSTRIAL REVENUE BONDS, SERIES VI, 1986, FIDELITY SAVINGS ASSOCIATION OF KANSAS. (DISTRICT I)

Agenda Report 04-0810

On October 14, 1986, the Wichita City Council approved the issuance of Taxable Industrial Revenue Bonds, in aggregate principal amount of \$7.3 Million, to finance the construction of an office building and parking garage on English Street, to be operated by Fidelity Savings Association of Kansas (now Fidelity Bank).

Under the provisions of the Lease, Fidelity Bank, as Tenant had the option to purchase the Project from the City of Wichita for the sum of \$100, plus all amounts required to provide for redemption and payment of the principal, interest and premium on all outstanding bonds, together with the Trustee's fees and costs of redemption. In October of 1997, the last of the bonds matured, and Fidelity Bank sent its \$100 check with correspondence requesting the termination of the bond documents and release of the Project. The Law Department has recently learned that the site lease to the City, which was not shown by the Bond Transcript to have been recorded, was in fact recorded, and still needs to be terminated to complete the release of the project. Fidelity Bank has also requested that the City approve a Form UCC3 to formally terminate the UCC Financing Statement on the Project.

Under the terms of the Bond Documents, the City should complete the remaining steps for release of the property to Fidelity Bank, including the execution and delivery of the Termination of Lease and approval of the Form UCC3.

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The purchase price and other consideration listed under the provisions of the Lease were provided by Fidelity Bank in 1997, so that no additional payment is required to complete the release of the Project.

It is appropriate for the City to execute and deliver the Termination of Lease and to approve the Form UCC3.

Motion--
--carried

Mayans moved that the Termination of Lease and Form UCC3 be approved and the necessary signatures authorized. Motion carried 7 to 0.

SURPLUS FIRE VEH. DISPOSAL OF SURPLUS FIRE VEHICLES.

Agenda Report No. 04-0811

As a result of the City's equipment replacement program, there were ten surplus fire vehicles ready for disposal. The three entities mentioned above, each requested the donation of fire vehicles for use in their department.

The City's purchasing department sent out Request for Proposals soliciting bids for eight of the ten pieces of surplus fire vehicles. Through members of the City Council, fire staff was advised that the Colwich Fire Department and Butler County Fire District #1 had each requested donation of one piece of the surplus fire vehicles. To comply with this request, the Wichita Fire Department is willing to donate to the City of Colwich Fire Department a 1985 Sutphen Quint #2-2742 with 88,508 miles, and a 75' Mini-Tower and to Butler County Fire District #1 – City of Andover a 1987 Sutphen Quint #2-2349 with 119,186 miles, with a 75' Mini-Tower. Both vehicles are in fair condition and have over 85,000 miles on them. All systems are operational. The Wichita Fire Department has a history of working with these two departments and is in the process of finalizing paperwork for mutual aid agreements with these two cities.

The Fire Department is also willing to donate to HCC a 1982 American LaFrance 1250 G.P.M. Pumper #2-2662 with 67,429 miles. The apparatus is in fair to poor condition and has no relief valve that is operational. This piece of equipment did receive a bid of \$50 from a vendor. After careful consideration, fire staff decided that the City would be better served donating this piece of equipment to HCC. Currently HCC conducts the fire recruit testing for the Wichita Fire Department with no cost to the department. Previously, this testing was done once every two years by Wichita Fire Department staff, costing the department overtime for staff to conduct the testing. Since Hutchinson has taken over this process, testing is held four times a year with no cost to the Department. Hutchinson also allows the Wichita firefighters to train using their training facilities.

The surplus fire vehicles have been replaced in the fleet.

These fire trucks are offered on an as is basis with no warranty or guarantee of any kind either expressed or implied and further releases the City of Wichita from any liability associated with these fire trucks.

Motion--
--carried

Mayans moved that the donation of the three vehicles be approved and the necessary signatures on the agreement letter be authorized. Motion carried 7 to 0.

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PLANNING AGENDA

Motion--
--carried

Mayans moved that the Planning Agenda, except Item 30, be approved as consensus Items. Motion carried 7 to 0.

(Agenda Item No. 30)
HISTORIC PRES.

APPEAL OF HISTORIC PRESERVATION BOARD ACTION REGARDING DEMOLITION OF 1315 NORTH BROADWAY. (DISTRICT VI) HPC2004-00105.

Agenda Report No. 04-0812

At the July 12, 2004, Historic Preservation Board meeting, the applicant requested approval for demolition of a residential structure located at 1315 N. Broadway so that he may build a new one-story commercial structure with off-street parking. This property is within 500 feet of the Topeka/Emporia Historic District and within 1000 feet of Hypatia House and the Park Place/Fairview Historic District. By a 5-1 vote, the HPB denied the demolition because it further erodes the historic context of the Topeka/Emporia Historic District and it does not promote the goals, objectives and strategies of the Midtown Neighborhood Plan. The applicant is appealing the decision of the HPB.

In January 2004, this property sustained fire damage and the property owner at that time requested and were given approval to repair the structure. Subsequently, he sold it to the current property owner, who was unaware of the fact that demolition of the property would require approval by the HPB. The Historic Midtown CDC has expressed interest in negotiating with the new owner to provide an alternate location for his business.

The HPB has a programmatic agreement with the State Historic Preservation Office to review applications for all properties individually listed or listed in historic districts in the state/national register of historic places. The Council has review authority over the decision of the Historic Preservation Board, as provided for in K.S.A. 75- 2724 and City Code Section 2.12.1023(c), and (f). In order for the City Council to overturn the decision of the HPB, all relevant factors must be considered and must find there is no "feasible and prudent alternative to the proposal and that the program includes all possible planning to minimize harm to such historic property resulting from such use."

Motion -- carried

Mayans moved that this Item be deferred. Motion carried 7 to 0.

SUB2004-41

SUB2004-41-PLAT OF LIBERTY PARK THIRD ADDITION, LOCATED SOUTH OF 13TH STREET NORTH AND ON THE EAST SIDE OF 135TH STREET WEST. (DISTRICT V)

Agenda Report No. 04-0813

Staff Recommendation: Approve the plat.
MAPC Recommendation: Approve the plat. (8-0)

This site, consisting of 85 lots on 35.86 acres, is a replat of a portion of the Liberty Park Second Addition. This site is located within Wichita's city limits and is zoned SF-5, Single Family Residential District.

Petitions, all 100%, and a Certificate of Petitions have been submitted for sewer, drainage, water and paving improvements. As required, a Restrictive Covenant was submitted to provide four off-street parking spaces per dwelling unit on each lot that abuts a 58-foot street. A Restrictive Covenant was also submitted to create a homeowner's association to provide for the ownership and maintenance of the reserves. This Covenant also provides for the continued sharing in the ownership and maintenance responsibilities of the previously platted reserves in the Liberty Park Second Addition.

This plat has been reviewed and approved by the Planning Commission, subject to conditions and recording within thirty (30) days.

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The Certificate of Petitions and Restrictive Covenants will be recorded with the Register of Deeds.

Motion--
--carried

Mayans moved that the documents and plat be approved, the necessary signatures authorized and the Resolutions be adopted. Motion carried 7 to 0.

RESOLUTION NO. 04-394

Resolution of findings of advisability and Resolution authorizing construction of Water Distribution System Number 448-89895 (south of 13th Street, east of 135th Street West), in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

RESOLUTION NO. 04-395

Resolution of findings of advisability and Resolution authorizing construction of Water Distribution System No. 448-89987 (south of 13th Street, east of 135th Street West), in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

RESOLUTION NO. 04-396

Resolution of findings of advisability and Resolution authorizing construction of Lateral 7, Main 5, Northwest Interceptor Sewer, 468-83730, (south of 13th Street, east of 135th Street West), in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

RESOLUTION NO. 04-397

Resolution of findings of advisability and Resolution authorizing construction of Lateral 15, Northwest Interceptor Sewer, 468-83853 (south of 13th Street, east of 135th Street West), in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

RESOLUTION NO. 04-398

Resolution of findings of advisability and Resolution authorizing construction of Lateral 16, Northwest Interceptor Sewer, 468-83854 (south of 13th Street, east of 135th Street West), in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

RESOLUTION NO. 04-399

Resolution of findings of advisability and Resolution authorizing improving Storm Water Drain No. 220, 468-83733 (south of 13th Street, east of 135th Street West), in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

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RESOLUTION NO. 04-400

Resolution of findings of advisability and Resolution authorizing Forestview from the north line of Lot 39, Block A, Liberty Park 2nd, south to the south line of Lot 27, Block C, Liberty Park 3rd, on Alderny and Alderny Cir. from the east line of Forestview, east and south to and including the cul-de-sac, and on 10th St. N. from the west line of Forestview, west to 135th Street West. Forestview ct. (Lots 9 through 23, Block A, Liberty Park 2nd) from the east line of Forestview, east to and including the cul-de-sac, on 10th N. Ct. (Lots 43 through 49, Block a, Liberty Park 2nd) from the north line of 10th St. N., north to and including the cul-de-sac, on 10th N. Ct. (Lots 1 through 8, Block A, Liberty Park 3rd) from the south line of 10th St. N., south to and including the cul-de-sac, and on Alderny ct. from the south line of Alderny, south to and including the cul-de-sac. Sidewalk be constructed on one side of Forestview, Alderny, and 10th St. N., 472-83881(south of 13th, east of 135th Street West), in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

RESOLUTION NO. 04-401

Resolution of findings of advisability and Resolution authorizing construction Forestview from the north line of Lot 27, Block C, south to the south line of Lost Creek, on Lost Creek, from the east line of Forestview, east to the west line of Liberty, on Liberty and Liberty Cir., from the south line of the plat, north to and including the cul-de-sac, and on Harvest Lane from the east line of Liberty, east to the east line of the plat. Sidewalk to be constructed on one side of Forestview, Lost Creek, Liberty and Harvest Lane, 472-84069 (south of 13th Street, east of 135th Street West), in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

SUB2004-45

SUB2004-45-PLAT OF VOEGELI SECOND ADDITION, LOCATED ON THE NORTH SIDE OF HARRY, EAST OF WEST STREET. (DISTRICT IV)

Agenda Report No. 04-0814

MAPC Recommendation: Approve the plat. (10-0)

This unplatted site, consisting of one lot on 4.96 acres, is located within Wichita's city limits. This site is zoned LI, Limited Industrial District.

Municipal services are available to serve the site.

This plat has been reviewed and approved by the Planning Commission, subject to conditions and recording within thirty (30) days.

Motion--
--carried

Mayans moved that the plat be approved and the necessary signatures authorized. Motion carried 7 to 0.

SUB2004-55

SUB2004-55-PLAT OF THE WATERFRONT FOURTH ADDITION, LOCATED NORTH OF 13TH STREET NORTH, ON THE EAST SIDE OF WEBB ROAD. (DISTRICT II)

Agenda Report No. 04-0815

Staff Recommendation: Approve the plat.

MAPC Recommendation: Approve the plat. (10-0)

This unplatted site, consisting of one lot on 9.22 acres, is located within Wichita's city limits. This site is zoned LI, Limited Industrial District.

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City water and sanitary sewer services are available to serve the site. An Off-site Drainage Easement has been submitted. This site is located within the noise impact area of Jabara Airport; therefore, a Restrictive Covenant and an Avigational Easement have been submitted.

This plat has been reviewed and approved by the Planning Commission, subject to conditions and recording within thirty (30) days.

The Off-site Drainage Easement, Restrictive Covenant and Avigational Easement will be recorded with the Register of Deeds.

Motion--
--carried

Mayans moved that the documents and plat be approved and the necessary signatures authorized. Motion carried 7 to 0.

SUB2004-57

SUB2004-57-PLAT OF KENNY ROGERS ADDITION, LOCATED ON THE EAST SIDE OF HILLSIDE AND SOUTH OF 53RD STREET NORTH. (DISTRICT I)

Agenda Report No. 04-0816

Staff Recommendation: Approve the plat.

MAPC Recommendation: Approve the plat. (11-0)

This site, consisting of one lot on 5.72 acres, has recently been annexed into Wichita's city limits. A zone change request (ZON 2004-23) from SF-20, Single-Family Residential District and LC, Limited Commercial District to LC, Limited Commercial District has been approved. The site is subject to the provisions of the Kenny Rogers Commercial Community Unit Plan (CUP 2004-14, DP-275).

City water services are available to serve the site. A 100 percent Petition and a Certificate of Petition have been submitted for sewer improvements. A Notice of Community Unit Plan (CUP) has been submitted identifying the approved CUP and its special conditions for development on this property.

As required by the Engineering Department, an off-site sewer easement and an off-site drainage easement have been submitted and will be handled by the County.

This plat has been reviewed and approved by the Planning Commission, subject to conditions and recording within thirty (30) days. Publication of the Ordinance should be withheld until the Plat is recorded with the Register of Deeds.

Motion--
--carried

Mayans moved that the documents and plat be approved; the necessary signatures be authorized; the Resolution be adopted; and the Ordinance placed on first reading, with publication being withheld until the plat is recorded with the Register of Deeds. Motion carried 7 to 0.

RESOLUTION NO. 04-402

Resolution of findings of advisability and Resolution authorizing construction of Lateral 5, Main 13, Sanitary Sewer No. 23, 468-83858 (east of Hillside, south of 53rd Street North), in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

RESOLUTION NO. 04-403

Resolution of findings of advisability and Resolution authorizing improving Storm Water Sewer No. 609, 468-83859, (east of Hillside, south of 53rd Street North), in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

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ORDINANCE

An Ordinance changing the zoning classifications or districts of certain lands located in the City of Wichita, Kansas, under the authority granted by the Wichita-Sedgwick County Unified Zoning Code, Section V-C, as adopted by City of Wichita Code Section 28.04.210. ZON 2004-23

SUB2004-67

SUB2004-67-PLAT OF REGENCY PARK SECOND ADDITION, LOCATED SOUTH OF 29TH STREET NORTH AND ON THE WEST SIDE OF GREENWICH ROAD. (DISTRICT II)

Agenda Report No. 04-0817

MAPC Recommendation: Approve the plat. (12-0)

Background:

This site, consisting of three lots on 9.77 acres, is a replat of a portion of the Regency Park Addition. A Protective Overlay (P-O #13) has been approved for this site. This site is located within Wichita's city limits and is zoned LI, Limited Industrial District.

A 100 percent Petition and a Certificate of Petition have been submitted for paving improvements. A Restrictive Covenant was submitted to create a homeowner's association to provide for the ownership and maintenance of the reserves. This Covenant also provides for the continued sharing in the ownership and maintenance responsibilities of the previously platted reserves in the Regency Park Addition. A Protective Overlay Certificate has been submitted addressing uses, screening, setbacks and cross-lot circulation.

This plat has been reviewed and approved by the Planning Commission, subject to conditions and recording within thirty (30) days.

The Certificate of Petitions, Restrictive Covenant and Protective Overlay Certificate will be recorded with the Register of Deeds.

Motion--
--carried

Mayans moved that the documents and plat be approved; the necessary signatures authorized and the Resolution adopted. Motion carried 7 to 0.

RESOLUTION NO. 04-404

Resolution of findings of advisability and Resolution authorizing constructing left and right turn lanes on Greenwich Road to serve Lot 2, Block 1, Regency Park Second Addition, 472-84073 (south of 29th Street, west of Greenwich), in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

DED2004-18

DED2004-18-DEDICATION OF A SANITARY SEWER EASEMENT FOR PROPERTY LOCATED SOUTH OF KELLOGG AND EAST OF WEBB ROAD. (DISTRICT II)

Agenda Report No. 04-0818

MAPC Recommendation: Accept the Dedication.

As a requirement of a lot split (Case No. SUB 2003-09), this Dedication is being submitted for construction and maintenance of a sanitary sewer.

The Dedication has been reviewed and approved by the Planning Commission.

The Dedication will be recorded with the Register of Deeds.

Motion--carried

Mayans moved that the Dedication be accepted. Motion carried 7 to 0.

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AIRPORT AGENDA

PROPERTY ACQ.

ACQUISITION OF PROPERTY AT THE SOUTHWEST CORNER OF RIDGE ROAD AND HIGHWAY K-42 FOR RUNWAY APPROACH PROTECTION AT WICHITA MID-CONTINENT AIRPORT.

Agenda Report No. 04-0819

A portion of the quarter section lying in the southwest quadrant of Ridge Road and Highway K-42 lies within the runway protection zone and the runway approach protection zone for Mid-continent Airport. The total parcel encompasses 10.84 acres with 3.173 acres within the zone. The Airport Authority has requested that the entire tract be acquired to prevent further development near this protected area. The property is zoned Limited Industrial and is platted. It is currently undeveloped and being used for agricultural.

The property was appraised \$470,000. The owner's appraiser valued the property at \$710,000. In late 2002, the property was appraised for the Airport Authority for \$708,000. Based on the prior appraisal and the owner's current appraisal, the owner has agreed to accept \$700,000. The future use of the part of the property not in the protection zone has not been determined.

Funds have been budgeted in the Capital Improvement Program for acquisitions for runway protection. The FAA will ultimately provide 90% of the purchase price for the 3.173 acres impacted by runway protection through their Airport Improvement Program. The interim funding source will be General Obligation Bonds paid for with airport revenue. A budget of \$710,000 is requested. This includes \$700,000 for the acquisition and \$10,000 for closing costs, environmental testing, survey and title insurance.

Motion--
--carried

Mayans moved that the Budget be approved; the bonding resolution adopted; the Real Estate Purchase Contracts approved and the necessary signatures authorized. Motion carried 7 to 0.

RESOLUTION NO. A-04-002

A Resolution declaring that a public necessity exists for, and that the public safety, service and welfare will be advanced by, the authorization of certain capital improvements to the Wichita Mid-Continent Airport Facility; and setting forth the nature of said improvements; the estimated costs thereof; and the manner of payment of same, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

RECESS

Mayans moved that the City Council recess into Executive Session at 11:45 a.m. to consider: consultation with legal counsel on matters privileged in the attorney-client relationship relating to: legal advice, preliminary discussions relating to the acquisition of real property for public purposes and matters relating to employer-employee negotiations and that the Council return from Executive Session no earlier than 12:30 p.m. and reconvene in the City Council Chambers. Motion carried 7 to 0.

RECONVENE

The Council reconvened in the City Council Chambers at 12:38 p.m. and Mayor Mayans announced that no action was taken.

Motion--
-- carried

Mayans moved to adjourn the Executive Session. Motion carried 4 to 0, (Schlapp, Brewer, and Lambke were not present).

Motion--
-- carried

Mayans moved to adjourn the Regular Meeting. Motion carried 4 to 0, Schlapp, Brewer, and Lambke were not present).

Adjournment

The meeting adjourned at 12:40 p.m.

Karen Sublett
City Clerk